

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

KENYARDA GRAHAM

PLAINTIFF

V.

CIVIL ACTION NO.:4:18cv004-DMB-JMV

CITY OF CLEVELAND, MISSISSIPPI; *et. al*

DEFENDANTS

**PLAINTIFF'S SECOND UNOPPOSED MOTION FOR
ADDITIONAL TIME TO SERVE COMPLAINT**

COMES NOW, Plaintiff, Kenyarda Graham, (hereinafter "Plaintiff), by and through his attorneys, and files this *Motion for Additional Time to Serve Complaint* against Defendants, and as follows, to-wit:

1. On or about January 17, 2018, Plaintiff counsel filed the above captioned civil action arising from Plaintiff's July 2016 incarceration at the Bolivar County Regional Correctional Facility (BCRCF). Plaintiff alleges, *inter alia*, the Defendants, individually and/or collectively, unlawfully incarcerated him and denied him appropriate and necessary medical evaluation and treatment.
2. The 90 days proscribed by Fed. R. Civ. P. 4(m) for the service of process is April 17, 2018.
3. Despite the good-faith effort of LeShaun McWright, a private process server hired by Plaintiff counsel, 5 of the 14 named Defendants have not been located for serve of process.¹ The following 5 defendants have not been served for the reasons stated:

¹ The following Defendants have been personally served: City of Cleveland, Mississippi; Chief Charles Bingham; Bolivar County, Mississippi; Sheriff Kelvin Williams; Bryan Bracey; Sandra Lomax; Ronnie Livingston; Ollie Hall; and, Mose Countryman.

| DEFENDANT'S NAME | REASON NOT SERVED |
|------------------|--|
| Timothy Shaw | No longer employed with Bolivar County Sheriff's Department; investigation continues as to whereabouts; |
| Malcolm Wesley | Military Leave; Have not been able to find current location |
| Demarcus Johnson | No longer employed with Bolivar County Sheriff's Department; location unknown; investigation continues as to whereabouts; Information that he may be on residing on the Mississippi Gulf Coast could not be confirmed |
| Ladester Green | No longer employed with Bolivar County Sheriff's Department; whereabouts unknown; investigation continues as to whereabouts. |
| Latoya Brown | No longer employed with Bolivar County Sheriff's Department; whereabouts unknown; investigation continues as to whereabouts; Information regarding her employment for an unknown trucking company and current residence could not be confirmed |

4. Plaintiff counsel has conducted an internet search for these individuals and engaged another process server/investigator to locate and serve the individuals; however, with limited information about them it is impossible to locate them through people-finding search sites.

5. Plaintiff counsel will continue to work with the process servers/ investigators currently on the case and incorporate new investigative services to provide current information and detailed background information regarding the unserved Defendants namely: Timothy Shaw; Malcolm Wesley; Demarcus Johnson; Ladester Green; and, Latoya Brown.

6. Fed. R. Civ. P. 4(m) provides:

(m) **Time Limit for Service.** If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. **But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.**

(emphasis added)

Plaintiff has shown good cause in this matter and requests additional time to get these individual defendants served.

7. Plaintiff counsel has conferred with defense counsels and they have no objection to the grant of this motion.

WHEREFORE PREMISES CONSIDERED, Plaintiff requests an additional 60 days or until and through August 18, 2018, to complete service of process upon Defendants Timothy Shaw; Malcolm Wesley; Demarcus Johnson; Ladester Green; and, Latoya Brown. Plaintiff further requests any other relief deemed just and proper.

RESPECTFULLY SUBMITTED on this the 18th day of June, 2018.

/s/ Crystal Wise Martin
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CERTIFICATE OF SERVICE

I, **CRYSTAL WISE MARTIN**, do hereby certify that I have provided via ECF a true and correct copy of the above and foregoing document to all parties of record.

THIS, the 18th day of June, 2018.

/s/ Crystal Wise Martin
CRYSTAL WISE MARTIN, ESQ.